

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

IN RE APPLICATION OF: ANDREW D. FIRLIK ET AL.

APPLICATION No.: 10/606,202

FILED: JUNE 24, 2003

FOR: **METHODS AND APPARATUS FOR  
EFFECTUATING A LASTING CHANGE IN  
A NEURAL-FUNCTION OF A PATIENT**

EXAMINER: UNKNOWN

ART UNIT: 3762

CONF. NO: 4373

**Information Disclosure Statement Within Three Months of  
Application Filing or Before First Action – 37 C.F.R. § 1.97(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1. Timing of Submission

This information disclosure is being filed within three months of the filing date of this application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever occurs last [37 C.F.R. § 1.97(b)]. The references listed on the enclosed Form PTO-1449 (modified) may be material to the examination of this application; the Examiner is requested to make them of record in the application.

2. Cited Information

Copies of the following references are enclosed:

- All cited references
- References marked by asterisks
- The following:

Copies of the following references can be found in parent U.S. Application No. 09/802,808:

- All cited references
- References marked by asterisks
- The following:

- This application was filed after 30 June 2003 and no copies of U.S. patents nor published applications are enclosed (See Notice of Deputy Commissioner Kunin on 11 July 2003).
- The following references are not in English. For each such reference, the undersigned has enclosed (i) a translation of the reference; (ii) a copy of a communication from a foreign patent office or International Searching Authority citing the reference, (iii) a copy of a reference which appears to be an English-language counterpart, or (iv) an English-language abstract for the reference prepared by a third party. Applicant has not verified that the translation, English-language counterpart or third-party abstract is an accurate representation of the teachings of the non-English reference, though, and reserves the right to demonstrate otherwise.
  - All cited references
  - References marked by ampersands
  - The following:

3. Effect of Information Disclosure Statement (37 C.F.R. § 1.97(h))

This Information Disclosure Statement is not to be construed as a representation that: (i) a search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the cited information is, or is considered to be, material to patentability. In addition, applicant does not admit that any enclosed item of information constitutes prior art to the subject invention and specifically reserves the right to demonstrate that any such reference is not prior art.

4. Fee Payment

No fees are believed due because this Information Disclosure Statement is being filed before the mailing date of the first Office Action.

- Applicant further submits that no fee is due in light of the following certification under 37 C.F.R. § 1.97(e) (check only one):
  - In accordance with 37 C.F.R. § 1.97(e)(1), the undersigned hereby states that each item of information submitted herewith was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement; or
  - In accordance with 37 C.F.R. § 1.97(e)(2), the undersigned hereby states that no item of information submitted herewith was cited in a communication from a foreign patent office in a counterpart foreign application, or, to the knowledge of the person signing the



certification after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c), more than three months prior to the filing of this statement.

However, should the Commissioner determine that fees are due in order for this Information Disclosure Statement to be considered, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-0665.

5. Patent Term Adjustment (37 C.F.R. § 1.704(d))

The undersigned states that each item of information submitted herewith was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this statement. 37 C.F.R. § 1.704(d).

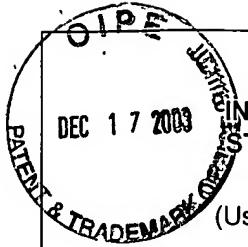
Respectfully submitted,  
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Date: 12/15/03

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**  
Form PTO-1449 (Modified)  
(Use several sheets if necessary)

Sheet 1 of 10 Attorney Docket No. 33734-8046US

**COMPLETE IF KNOWN**

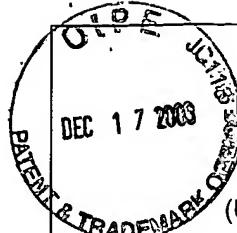
Application Number	10/606,202
Confirmation Number	4373
Filing Date	June 24, 2003
First Named Inventor	Andrew D. Firlik
Group Art Unit	3762
Examiner Name	Unknown

U.S. PATENT DOCUMENTS						
Examiner Initials*	Cite No.	U.S. Patent or Application		Name of Patentee or Inventor of Cited Document	Date of Publication or Filing Date of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		NUMBER	Kind Code (if known)			
		US2002/0028072		Kashiyama	03/07/02	
		US2002/0169485		Pless et al.	11/14/02	
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EXAMINER

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\*EXAMINER: Initial if reference considered, whether or not criteria is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application(s).



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Sheet **2** of **10** Attorney Docket No. **33734-8046US**

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		NUMBER	Kind Code (if known)			
		5,423,864		Ljungstroem	06/13/95	
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		5,711,316		Elsberry et al.	01/27/98	
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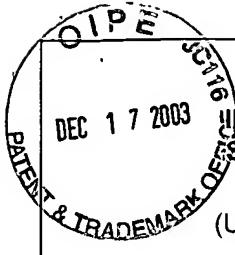
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		NUMBER	Kind Code (if known)		
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Sheet **4** of **10** Attorney Docket No. **33734-8046US**

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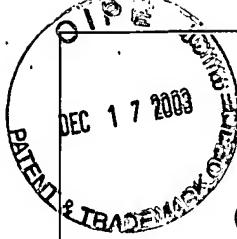
**U.S. PATENT DOCUMENTS**

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		6,052,624		Mann	04/18/00	
		6,057,847		Sever, Jr.	05/02/00	
		6,058,331		King	05/02/00	
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**Form PTO-1449 (Modified)**  
**(Use several sheets if necessary)**

<p style="text-align: center;"> <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>          Form PTO-1449 (Modified)          (Use several sheets if necessary)       </p>				<b>COMPLETE IF KNOWN</b>	
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				First Named Inventor	Andrew D. Firlik
				Group Art Unit	3762
				Examiner Name	Unknown
Sheet	5	of	10	Attorney Docket No.	33734-8046US

## **U.S. PATENT DOCUMENTS**

## **FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No.	Foreign Patent or Application			Name of Patentee or Applicant of Cited Document	Date of Publication or Filing Date of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T
		Office	NUMBER	Kind Code (if known)				
		PCT	WO 98/06342		Neotonus, Inc.	02/19/98		
		PCT	WO 95/21591		University of Iowa Research Foundation	17/08/95		
		PCT	WO 01/97906		Advanced Bionics Corp	27/12/01		
		PCT	WO 94/07564		Cardiac Pacemakers, Inc.	14/04/94		
		PCT	WO 87/07511		Zion Educational Foundation	17/12/87		
		PCT	WO 02/09811		Neuropace, Inc.	07/02/02		

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Sheet	6	of	10	Attorney Docket No.	33734-8046US

#### FOREIGN PATENT DOCUMENTS

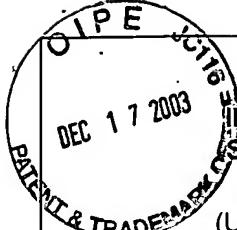
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		Office	NUMBER	Kind Code (if known)				
		PCT	WO 02/36003		Neuropace, Inc.	10/05/02		
		PCT	WO 02/38031		Neuropace, Inc.	16/05/02		
		PCT	WO 02/38217		Neuropace, Inc.	16/05/02		
		EP	1145736		Neuropace, Inc.	17/10/01		

#### OTHER PRIOR ART-NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume issue number(s), publisher, city and/or country where published.	T
		SIEBNER et al., "Lasting cortical activation after repetitive TMS of the motor cortex," NEUROLOGY 54, pp. 956-963 (February 2000)	
		ZIEMANN et al., "Modulation of Plasticity in Human Motor Cortex after Forearm Ischemic Nerve Block," The Journal of Neuroscience, Vol. 18, No. 3, pp. 1115-1123 (February 1998)	
		OLIVERI et al., "Paired transcranial magnetic stimulation protocols reveal a pattern of inhibition and facilitation in the human parietal cortex," The Journal of Physiology, 529.2, pp. 461-468 (2000)	
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		CRAMER, S.C. and BASTINGS, E.P., "Mapping clinically relevant plasticity after stroke," Neuropharmacology Vol. 19, No. 5, pp. 842-851 (April 2000)	

EXAMINER	DATE CONSIDERED
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Sheet

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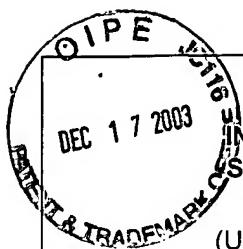
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		NITSCHE, M.A. and PAULUS, W., "Excitability changes induced in the human motor cortex by weak transcranial direct current stimulation," The Journal of Physiology, Vol. 527.3, pp. 663-639 (2000)	
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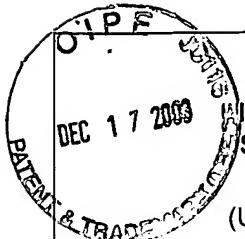
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**OTHER PRIOR ART-NON PATENT LITERATURE DOCUMENTS**

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Filing Date	June 24, 2003
First Named Inventor	Andrew D. Firlik
Group Art Unit	3762
Examiner Name	Unknown
Attorney Docket No.	33734-8046US

Sheet 9 of 10

OTHER PRIOR ART-NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume issue number(s), publisher, city and/or country where published.	T
		TURTON et al., "Contralateral and ipsilateral EMG responses to transcranial magnetic stimulation during recovery of arm and hand function after stroke," <i>Electroencephalography and Clinical Neurophysiology</i> 101 pp. 316-328 (1996)	
		BÜTEFISCH et al., "Mechanisms of use-dependent plasticity in the human motor cortex," <i>Proc. Natl. Acad. Sci. USA</i> , Vol. 97, No. 7, pp. 3661-3665 (March 2000)	
		VAN DER LEE et al., "The Intra- and Interrater Reliability of the Action Research Arm Test: A Practical Test of Upper Extremity Function in Patients With Stroke," <i>Arch. Phys. Med. Rehabil.</i> , Vol. 82 pp. 14-19 (January 2001)	
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		LIEPERT et al., "Treatment-Induced Cortical Reorganization After Stroke in Humans," <i>Stroke</i> , 31:1210-1216 (2000)	
		SCHIFF et al., "A neuromodulation strategy for rational therapy of complex brain injury states," <i>Neurological Research</i> , Vol. 22 pp. 267-272 (April 2000)	

EXAMINER

DATE CONSIDERED

\*EXAMINER: Initial if reference considered, whether or not criteria is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application(s).



INFORMATION DISCLOSURE STATEMENT BY APPLICANT Form PTO-1449 (Modified) (Use several sheets if necessary)				COMPLETE IF KNOWN	
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		GLADSTONE et al., "Enhancing Recovery after Stroke with Noradrenergic Pharmacotherapy: A New Frontier?", Can J. Neurol. Sci., Vol. 27, No. 2 (May 2000)			
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		PCT International Search Report for Application No. PCT/US02/07077; Applicant: Vertis Neuroscience, Inc., October 22, 2002, 7 pgs.			
		PCT International Search Report, for Application No. PCT/US02/32695; Applicant: Vertis Neuroscience, Inc., December 27, 2002; 9 pgs.			

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